

INITIAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for the Determination that Regulations Are NecessarySections 30-700.3, .31, .32, .33, .4 and .5Specific Purpose:

Section 30-700.3 is adopted to add to other IHSS program definitions, the new In-Home Supportive Services (IHSS) Plus Waiver program.

Section 30-700.31 is adopted to specify that these services are available as described in the IHSS program regulations, MPP Section 30-757, when provided by a parent or spouse provider, or receiving Restaurant Meal Allowance or Advance Pay.

Section 30-700.32 is adopted to specify that to be a recipient of IHSS Plus Waiver services a recipient must fall within any one of the categories described in Section 30-700.31 and be determined Medi-Cal eligible.

Section 30-700.33 is adopted to specify that this program is a Section 1115 Demonstration Project granted to the State of California by the US Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). This demonstration project is approved for 5 years beginning August 1, 2004, and limited to the availability of funds and possible extension of the demonstration.

Current Sections 30-700.3 and .4 are renumbered to 30-700.4 and .5 respectively to accommodate the addition of Section 30-700.3 et seq.

Factual Basis:

Welfare and Institutions Code Section 14132.951 establishes the IHSS Plus Waiver Program. The renumbering of current Sections 30-700.3 and .4 and the adoption of Sections 30-700.3, .31, .32 and .33 are necessary to ensure that the Department complies with the requirements set forth in Welfare and Institutions Code Section 14132.951. This information is necessary to ensure the counties administer this new program correctly.

Section 30-785Specific Purpose and Factual Basis:

This section is adopted to comply with Welfare and Institutions Code Section 14132.951(a) by adopting the "IHSS Plus Waiver Program."

Sections 30-785(a) and (a)(1)

Specific Purpose:

These sections were adopted to specify that the Program and Special Definition shall be the same as for the IHSS Program, unless otherwise specified.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section.” The Program and Special Definitions, MPP Section 30-700 and 30-701, do not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(b) and (b)(1)

Specific Purpose:

Section 30-785(b) is being adopted to specify the eligibility criteria for the IHSS Plus Waiver program.

Section 30-785(b)(1) is being adopted to specify the recipients of the IHSS Plus Waiver program must be a California resident, living in his/her own home and aged, blind or disabled according to Medi-Cal rules.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section.” The specific criteria of California resident, living in his/her own home, and aged, blind, or disabled are found in the IHSS program MPP Section 30-755.1, and do not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(b)(2) and (b)(2)(A) and (B)

Specific Purpose:

Section 30-785(b)(2) is being adopted to specify that recipients must be determined eligible for full-scope federally funded Medi-Cal in accordance with Medi-Cal eligibility rules.

Sections 30-785(b)(2)(A) and (B) specify the way recipients may be determined Medi-Cal eligible in accordance with Medi-Cal eligibility rules..

Factual Basis:

The Special Terms and Conditions (STC) for the California IHSS Plus Waiver, granted under Section 1115 of the Social Security Act, Demonstration Projects, specify in #14 (Medi-Cal Eligibility) that “all individuals served under the IHSS Plus demonstration project will be determined Medi-Cal eligible by qualified Medi-Cal eligibility workers using Medi-Cal eligibility rules. This will include adherence to Medi-Cal rules for determining spend-down and share of cost... Supplemental Security Income procedures for determination of presumptive disability will be followed.”

Section 30-785(b)(3)

Specific Purpose:

Section 30-785(b)(3) is adopted to specify that the IHSS Plus Waiver program will follow the assessed need regulations in accordance with MPP Section 30-761.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section.” MPP Section 30-755.2 does not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(b)(4) through (b)(4)(D)

Specific Purpose:

Sections 30-785(b)(4) through (b)(4)(D) are adopted to specify that any recipient of the IHSS Plus Waiver program must have one of the following: Restaurant Meal Allowance, Advance Pay, services provided by a spouse, or services provided by a parent.

Factual Basis:

The STC for the California IHSS Plus Waiver granted under Section 1115 of the Social Security Act, Demonstration Projects, states in #20a (Self-Directed Supports) that recipients have the options to choose a spouse provider, parent provider, may have the option to receive restaurant meal allowance (additional care options) and Advance Pay: “A person-centered planning process is used to identify participants’ long-term care needs and the resources available to meet these needs, and to provide access to additional care options, including the choice to use spouse and parent caregivers, and to access a prospective monthly cash payment under the Advance Pay option.”

Sections 30-785(b)(5) through (b)(5)(A)2.

Specific Purpose:

Section 30-785(b)(5) is adopted to specify that any applicant's share of cost must be met.

Section 30-785(b)(5)(A) is adopted to specify that if there is any share of cost, then Section 30-785(b)(5)(A)1. and 2. are to be applied.

Section 30-785(b)(5)(A)1. is adopted to specify that a share of cost determination is based on Medi-Cal share of cost regulations found in Title 22, CCR, Division 3, Chapter 2, Articles 10, 11, and 12.

Section 30-785(b)(5)(A)2. is adopted to specify that if a recipient is eligible for a share of cost comparison based on Welfare and Institutions Code Section 12305.1, then a comparison will be performed.

Factual Basis:

The Special Terms and Conditions (STC) for the California IHSS Plus Waiver, granted under Section 1115 of the Social Security Act, Demonstration Projects, specify in #14 (Medi-Cal Eligibility) that "all individuals served under the IHSS Plus demonstration project will be determined Medi-Cal eligible by qualified Medi-Cal eligibility workers using Medi-Cal eligibility rules. This will include adherence to Medi-Cal rules for determining spend-down and share of cost... Supplemental Security Income procedures for determination of presumptive disability will be followed."

Welfare and Institutions Code Section 12305.1(a) states that "any aged, blind, or disabled individual who is receiving Medi-Cal personal care services pursuant to subdivision(s) of Section 14132.951, and who would otherwise be deemed a categorically needy recipient pursuant to Section 12305... is eligible to receive a supplementary payment under this article to be used towards the purchase of services under Section 14132.951." This allows IHSS Plus Waiver recipients who are eligible to receive a share of cost comparison.

Sections 30-785(c) and (c)(1)

Specific Purpose:

Sections 30-785(c) and (c)(1) are adopted to specify that the IHSS Plus Waiver program will follow the process for determining eligibility as described in MPP Section 30-755.2.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section...” MPP Section 30-755.2 does not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(d) and (d)(1)

Specific Purpose:

Sections 30-785(d) and (d)(1) are adopted to specify that the IHSS Plus Waiver program will follow the regulations that determine an applicant’s need in accordance with MPP Section 30-756, of the IHSS program.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section...” MPP Section 30-756, does not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(e) through (e)(1)(B)

Specific Purpose:

Section 30-785(e)(1) is adopted to specify that the IHSS Plus Waiver program will follow the Program Content in accordance with MPP Section 30-757.

Section 30-785(e)(1)(A) is adopted to specify that those persons eligible for the IHSS Plus Waiver shall not be eligible for the IHSS program.

Section 30-785(e)(1)(B) is adopted to specify that those persons eligible for all their services with the Personal Care Services Program (PCSP) shall not be eligible for the IHSS Plus Waiver or the IHSS programs.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section...” The Program Content, MPP Section 30-757, does not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(e)(1)(A) and (B) are adopting language from Welfare and Institutions Code Section 14132.951(d):

“(1) A person who is eligible for the IHSS Plus waiver shall no longer be eligible to receive services under the In-Home Supportive Services program to the extent those services are available through the IHSS Plus waiver.

“(2) A person shall not be eligible to receive services pursuant to the IHSS Plus waiver to the extent those services are available pursuant to Section 14132.95.”

Sections 30-785(f) and (f)(1)

Specific Purpose:

These sections are adopted to specify that the IHSS Plus Waiver program will follow the Time Per Task and Frequency Guidelines in accordance with MPP Section 30-758.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section...” The Time Per Task and Frequency Guidelines, MPP Section 30-758, do not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(g) through (g)(4)

Specific Purpose:

Section 30-785(g)(1) is adopted to specify that the IHSS Plus Waiver program will follow the Application Processing in accordance with MPP Section 30-759 except for the presumptive disability determination in Section 30-759.3.

Section 30-785(g)(2) is adopted to specify the exception to the IHSS program regulations. The presumptive disability determination must follow the Medi-Cal regulation located at Title 22, CCR, Division 3, Section 50167(a)(1)(C).

Section 30-785(g)(3) is adopted to specify that the Medi-Cal eligibility determination must be completed during the application process.

Section 30-785(g)(4) is adopted to specify that intercounty transfers must be coordinated with the Medi-Cal eligibility case.

Factual Basis:

The Special Terms and Conditions (STC) for the California IHSS Plus Waiver, granted under Section 1115 of the Social Security Act, Demonstration Projects, specify in #14 (Medi-Cal Eligibility) that “all individuals served under the IHSS Plus demonstration project will be determined Medi-Cal eligible by qualified Medi-Cal eligibility workers using Medi-Cal eligibility rules. This will include adherence to Medi-Cal rules for determining spend-down and share of cost... Supplemental Security Income procedures for determination of presumptive disability will be followed.”

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section.” The Application Process, MPP Section 30-759, does not conflict with Medi-Cal rules and therefore may be used in the administration of the program, except for the presumptive disability determination specified in Section 30-759.3.

Sections 30-785(h) and (h)(1)

Specific Purpose:

Sections 30-785(h) and (h)(1) are adopted to specify that the IHSS Plus Waiver program will follow the applicant, recipient and county responsibilities in accordance with MPP Section 30-760.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section...” The Responsibilities, MPP Section 30-760, do not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(i) through (i)(3)

Specific Purpose:

Sections 30-785(i)(1) and (2) are adopted to specify that the IHSS Plus Waiver program will follow the Needs Assessment Standards in accordance with MPP Section 30-761.1, as well as the new adopted IHSS Plus Waiver, Eligibility, MPP Section 30-785(b).

Section 30-785(i)(2)(A) states the exception of Section 30-785(i)(2), a reassessment must be completed annually and not given the option to extend the reassessment out to 18 months.

Section 30-785(i)(3) is adopted to reiterate that the IHSS Plus Waiver program will allow the IHSS staff requirement of the Needs Assessment Standards, MPP Section 30-761.3, of the In-Home Supportive Services (IHSS) program.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section...” The Needs Assessment Standards, MPP Section 30-761, do not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

This section also includes the new adopted IHSS Plus Waiver program, MPP Section 30-785(b) which specifies the Medi-Cal eligibility requirement. As stated previously, the Special Terms and Conditions (STC) for the California IHSS Plus Waiver, granted under Section 1115 of the Social Security Act, Demonstration Projects, specify in #14 (Medi-Cal Eligibility) that “all individuals served under the IHSS Plus demonstration project will be determined Medi-Cal eligible by qualified Medi-Cal eligibility workers using Medi-Cal eligibility rules. This will include adherence to Medi-Cal rules for determining spend-down and share of cost... Supplemental Security Income procedures for determination of presumptive disability will be followed.”

The STC also states in, #30 (Required Contents of Operational Protocol), e. (Eligibility/Enrollment), bullet #3, “annual redeterminations for financial eligibility and reassessments of the need for personal care services.”

Sections 30-785(j) and (j)(1)

Specific Purpose:

These sections are adopted to specify that the IHSS Plus Waiver program will follow the Service Authorization in accordance with MPP Section 30-763.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section...” The Service Authorization, MPP Section 30-763, does not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(k) and (k)(1)

Specific Purpose:

These sections are adopted to specify that the IHSS Plus Waiver program will follow the Individual Providers Compensation in accordance with MPP Section 30-764.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section.” The Individual Provider Compensation, MPP Section 30-764, does not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(l) and (l)(1)

Specific Purpose:

These sections are adopted to specify that the IHSS Plus Waiver program will follow the Cost Limitations in accordance with MPP Section 30-765.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section...” The Cost Limitations, MPP Section 30-765, does not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(m) and (m)(1)

Specific Purpose:

These sections are adopted to specify that the IHSS Plus Waiver program will follow the County Plans in accordance with MPP Section 30-766.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section...” The County Plans, MPP Section 30-766, does not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(n) and (n)(1)

Specific Purpose:

These sections are adopted to specify that the IHSS Plus Waiver program will follow the Service Delivery Methods in accordance with MPP Sections 30-767.11, .12 and .13.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section...” The Service Delivery Methods, MPP Section 30-767.11, .12 and .13, do not conflict with Medi-Cal rules and therefore will be used in the administration of the program.

Sections 30-785(o) and (o)(1)

Specific Purpose:

These sections are adopted to specify that the IHSS Plus Waiver program will follow the (handbooked) Department of Health Services regulations that state the Medi-Cal regulations regarding Overpayments/Underpayments, MPP Sections 30-768.5, .6 and .7.

Factual Basis:

The Special Terms and Conditions (STC) for the California IHSS Plus Waiver, granted under Section 1115 of the Social Security Act, Demonstration Projects, specify in #14 (Medi-Cal Eligibility) that “...all new applicants for personal care services under the demonstration will be determined Medi-Cal eligible using Medi-Cal rules...” Medi-Cal regulations Section 50781, 50786 and 50787, handbooked as Overpayments/Underpayments, MPP Section 30-768.5, .6 and .7, are Medi-Cal regulations and therefore will be used in the administration of the program.

Sections 30-785(p) and (p)(1)

Specific Purpose:

These sections are adopted to specify that the IHSS Plus Waiver program will follow the Payrolling for Individual Providers in accordance with MPP Section 30-769.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section.” The Payrolling for Individual Providers, MPP Section 30-769, does not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

Sections 30-785(q) and (q)(1)

Specific Purpose:

These sections are adopted to specify that the IHSS Plus Waiver program will follow the Provider Identification in accordance with MPP Section 30-776.

Factual Basis:

Welfare and Institutions Code Section 14132.951 states that “(b) To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section.” The Provider Identification, MPP Section 30-776, does not conflict with Medi-Cal rules and therefore may be used in the administration of the program.

b) Identification of Documents upon Which the Department is Relying

- Senate Bill 1104, Chapter 229, Statutes of 2004, Section 56
- Special Terms and Conditions (STC) for the California IHSS Plus Waiver, granted under Section 1115 Demonstration Project
- Letter from Mark B. McClellan of the Department of Health & Human Services: to the California Department of Health Services; dated July 30, 2004

c) Local Mandate Statement

These regulations do impose a mandate on local agencies but not on school districts. The mandate is not required to be reimbursed pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code or Section 6 of Article XIII B of the California Constitution because implementation of the regulations will not result in any increased cost to local agencies.

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact on Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.